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| Notice of Allowability | Application No. | Applicant(s) | |
| | 10/723,858 | SALLA ET AL. | |
| | Examiner George Manuel | Art Unit 3762 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTO-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. This communication is responsive to _____.
2. The allowed claim(s) is/are 21-32, 53-64, 67, 71, 72.
3. Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All
 - b) Some*
 - c) None
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) hereto or 2) to Paper No./Mail Date _____.
 - (b) including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. Notice of References Cited (PTO-892)
2. Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. Notice of Informal Patent Application
6. Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. Examiner's Amendment/Comment
8. Examiner's Statement of Reasons for Allowance
9. Other _____.

DETAILED ACTION

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with John M. Rariden on 12/19/07.

The application has been amended as follows:

Cancel claims 1-20, 33-52, 65, 66 and 68-70.

In claim 21, line 5, after "respiratory" insert –organ--,
line 8, after "respiratory" insert –organ--,
line 9, replace "a heart" with –the heart--,
lines 9-10, replace "a respiratory" with –the respiratory--.

In claim 53, line 5, after "respiratory" insert –organ--,
line 8, after "respiratory" insert –organ--,
line 9, replace "a heart" with –the heart--,
line 10, replace "a respiratory" with –the respiratory--.

In claim 67, line 4, after "respiratory" insert –organ--,
line 7, after "respiratory" insert –organ--,
line 8, replace "a heart" with –the heart--,
lines 8-9, replace "a respiratory" with –the respiratory--.

Allowable Subject Matter

Claims 21-32, 53-64, 67, 71 and 72 are allowed.

The following is an examiner's statement of reasons for allowance:

Extracting one or more periods of minimal motion for a heart or respiratory organ using electrical and non-electrical data representative of cardiac motion and data representative of respiratory motion as claimed is not taught nor suggested by the prior art of record.

Related co-pending applications 10/723,894 and 10/723,857 either singularly or in combination with other art of record fail to render obvious the feature of extracting one or more periods of minimal motion for a heart or respiratory organ as claimed in the present application.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to George Manuel whose telephone number is (571) 272-4952.

/George Manuel
George Manuel
Primary Examiner
Art Unit: 3762